

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

IRINA SVITYASHCHUK,

Plaintiff,

v.

BMW OF NORTH AMERICA, LLC,

Defendant.

No. 2:22-cv-54-KJN CONSENT
ORDER FOR JOINT PRETRIAL
STATEMENT

The dispositive motion deadline having passed (see ECF No. 13), this case appears ripe for trial. The court now orders the following in preparation for the final pretrial conference.

FINAL PRETRIAL CONFERENCE

The final pretrial conference is set before the undersigned on Tuesday, February 14, 2023. Due to the court's unavailability that morning, the hearing is RESCHEDULED for **3:00 p.m. on February 14th**; it will take place by Zoom. Counsel who appear at the pretrial conference shall in fact try the matter. Counsel are to be fully prepared for trial at the time of the pretrial conference.

It is counsel's duty to aid the court in: (a) formulating and simplifying issues and eliminating meritless claims or defenses; (b) settling facts that should be properly admitted; and (c) avoiding unnecessary proof and cumulative evidence. To this end, the parties shall submit a joint pretrial statement (see L.R. 281(a)(2)) no later than **February 7, 2023**, that conforms to Local Rule 281(b) and the requirements listed below.

1 Regarding the facts underlying this case:

- 2 1. The undisputed facts and disputed factual issues shall be set forth in two separate sections;
- 3 2. The parties should identify those facts relevant to each separate cause of action, if
4 applicable. In this regard, the parties are to number each individual fact or factual issue.
5 Each fact should (generally) relate or correspond to an element of the relevant cause of
6 action;
- 7 3. If the parties are unable to agree as to what factual issues are properly before the court for
8 trial, they should list these issues in the “disputed factual issues” section and explain by
9 parenthetical the controversy concerning each issue; and
- 10 4. The parties are reminded that the purpose of listing the disputed factual issues is to apprise
11 the court and all parties about the precise issues that will be litigated at trial. The court is
12 not interested in a listing of all evidentiary facts underlying the issues in dispute. With
13 any undisputed facts, the court will accept agreements as to evidentiary facts;

14 The parties are required to provide with their pretrial statement a list of witnesses and exhibits
15 they propose to proffer at trial, no matter for what purpose. Of note:

- 16 1. These lists shall not be contained in the pretrial statement itself, but shall be attached as
17 separate documents to be used as addenda to the final pretrial order;
- 18 2. Plaintiff’s exhibits shall be listed numerically; Defendant’s exhibits shall be listed
19 alphabetically; and
- 20 3. The pretrial order will contain a stringent standard for the proffering of witnesses and
21 exhibits at trial that are not identified for the pretrial order. Counsel are cautioned that the
22 standard will be strictly applied. However, the listing of exhibits or witnesses which
23 counsel do not intend to use will be viewed as an abuse of the court’s processes.

24 At the pretrial conference, the court will set the remaining deadlines, including for the filing of
25 motions in limine, trial briefs, and proposed voir dire questions, jury instructions, and verdict
26 forms.

27 Counsel shall email a copy of the joint pretrial statement in Word format to Judge
28 Newman’s chambers at kjnorders@caed.uscourts.gov.

1 TRIAL SETTING

2 Due to the court's unavailability, the jury trial scheduled to begin March 17, 2023, is
3 VACATED. Counsel shall confer on new trial dates, and may contact the undersigned's
4 courtroom deputy for a list of available dates. Counsel shall submit their proposed new dates and
5 trial length in their joint pretrial statement. As a reminder, trials before Judge Newman begin on
6 a Friday (for motions in limine and other pretrial matters), with jury selection beginning the
7 following Monday.

8 SETTLEMENT CONFERENCE

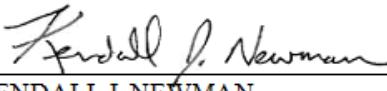
9 Should the parties wish to have a magistrate judge facilitate a settlement conference, they
10 are to contact the undersigned's courtroom deputy to inquire about the availability of another
11 magistrate judge.

12 ORDER

13 Accordingly, it is HEREBY ORDERED:

- 14 1. The parties shall submit their joint pretrial statement by February 7, 2023;
- 15 2. The final pretrial conference is RESCHEDULED for February 14, 2023, at 2:00 p.m.
16 Counsel will receive separate instructions on how to appear by Zoom; and
- 17 3. The jury trial currently set to begin on March 17, 2023, is VACATED. Counsel shall
18 contact Judge Newman's courtroom deputy for a list of available new dates, confer,
19 and submit their proposed new trial dates in the joint pretrial statement.

20 Dated: February 1, 2023

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22 _____
23 KENDALL J. NEWMAN
24 UNITED STATES MAGISTRATE JUDGE

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